The Department's action came four days after Federal District Judge Jennings Bailey ruled that the Group Health Association is a legitimate arrangement between a group of government employees and a group of physicians and does not constitute violations of medical or insurance statutes.

"The analogy to which this proceeding should be compared is that of a prosecution for reckless driving, committed by a person of distinction and good-will who is in a hurry to meet his legitimate engagements," the Department said.

"The absence of moral turpitude, however, does not lessen the duty of the Department to prosecute where it believes violations of the anti-trust laws have occurred.

"As already announced, therefore, where evidence of violations of the anti-trust laws exists, it (the Department) has no alternative except to proceed before a grand jury, except in those cases where past acquiescence or other special considerations have made a criminal proceeding inequitable."

The statement emphasized that an indictment for violation of the anti-trust laws necessarily does not imply moral turpitude. It added that "thus in the present case the Department does not take the view that the offenses committed are crimes which reflect upon the character or high standing of the persons who may be involved."

EFFECT NATION-WIDE

It said that while the suit primarily involved Washington, it was selected because its "importance is nation-wide and its value as a precedent is of far-reaching consequence on one of our most pressing problems."

"The illegal activities of organized medicine in this instance are typical of what have occurred in other cities throughout the country whenever coöperative health groups have been formed," the Department said.

It held that coöperative health associations are designed primarily to help families not on relief and added that Group Health Association is a consumers' coöperative organization whose members pay monthly dues to maintain a staff of physicians and operate a clinic.—Pasadena *Post,* August 1.

DOCTORS HAVE THE REMEDY*

One does not like to accuse the trust-busting branch of the Department of Justice of not knowing the anti-trust law. And yet there seems to be a curious misfit in resorting to the anti-monopoly provisions of that law to restrain the confessedly monopolistic tactics of the American Medical Association. For what that law forbids is not monopoly generally, but monopolistic measures "in restraint of trade." And, while the recent boycotts and other tactics of the Fishbein group of the Medical Association are undoubtedly "in restraint," what they "restrain" is not "trade"—unless the practice of medicine is "trade."

* * *

If the Medical Association comes under any law at all, it is certainly not under the law regulating commerce. Medicine is not commerce. It does not manufacture, transport or sell goods. It renders personal services for pay. That makes it, if anything, industrial, a labor union. Its members work for fees, or for wages, and these "restraints," now complained of, are boycotts of "scabs" who cut wages, or are refusals to work with those who do not comply with the union rules. These things are all against the law, if done by manufacturers or merchants of goods. They are all expressly protected by the law, if done by workers for pay. If working at medical practice, for pay, brings the American Medical Association and the District of Columbia Medical Society under the anti-trust laws, what about the A. F. L. and C. I. O. unions, which have been doing all these things for years, with the full sanction of the labor laws?

As a matter of fact, the practice of medicine has long been a monopoly, made so by law. No one is permitted to practice medicine and surgery except a licensed member of the profession, and these licenses are exceedingly hard to get. They require a training which very few people have or would be capable of mastering, plus the passing of an examination which very few people can pass. These licenses used to be issued by the Medical Association itself. Now they are issued by the state. Either way, they confer a monopoly, and make it a criminal offense for any unlicensed person to engage in a practice reserved to these privileged licensees. All of which is, of course, as it should be and is for the protection of the public. But it would be decidedly against the interest of the public if the principle were applied to the sellers of groceries or the manufacturers of nails.

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So, if the doctors come under any laws, it must be under the labor laws, and whatever they do will be legally permissible if it is likewise permissible to the Typographical Union or the Brotherhood of Locomotive Engineers. The Medical Association either is a labor union, amenable to the labor laws, or else it is something else, which comes under the laws neither of labor nor of commerce. Of course, whatever it is in law, it is in fact something entirely distinct, since a profession is neither commerce nor labor.

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The real offense of the Fishbein-dominated group, now precariously in possession of the official organization of the profession, is in fact that it does treat the profession too much as a labor union, and insists on the rights and resorts to the tactics of a labor union. This may very well be a legal defense against the threatened prosecution of the Medical Association. If it insists on being a labor union it is entitled to the protection of the labor laws and to the exemption from the commerce laws which are granted to other labor organizations. But, if so, it is an escape from fact into a legal fiction. A scientific profession should cling to fact, in the political and sociological parts of its activities, as it does in the pathological and therapeutic ones.

* * *

The immediate offense charged in Washington is the boycott by the Association of doctors who accept employment by the "Group Health Association," organized by Government employees; refusal to consult with them or with any who do so, and the exclusion from hospitals of Group Association doctors. These are the exact things which the rival maritime and longshoremen's unions are now doing to each other. It is straight labor-unionism, quite in accordance with the labor laws—and grossly inconsistent with the responsibilities of a scientific profession, charged with the protection of the health of the public and of individuals.

* * *

The proposed prosecution is, of course, an absurdity and will be a farce. The remedy is in the doctors themselves or, failing that, in new laws, which are neither commercial nor labor laws, but medical laws. The doctors have insisted that if there is to be any group organization of the business (not the practice) of medicine, it shall be voluntary. Here is a voluntary organization and they are boycotting it. Quite possibly they are right. For any purely voluntary association is almost certain to succumb to the temptation of "contract" medicine—of hiring particular doctors, for wages, to serve its members. This is the cheapest way.

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But it is not the best way. The best way is an insurance system in which the patient chooses his own physician, just as he does now, and the two deal with each other in all respects but one just as they do now. The one exception is that the doctor is paid by the insurance fund, to which the patient has contributed, instead of by the patient individually. So long as the present leaders of the organized profession set themselves rigidly against this obvious remedy, they are sure to be confronted by other and undesirable ones. The Association leaders have now recognized that the social (not the medical) problem exists. Unless they will coöperate in a positive social (not merely medical) solution of it, the law will do it for them. And, without their coöperation, it probably will do it badly. That will not be good for either the science, the practice or the business of medicine.—San Francisco *Chronicle,* August 4.

* By Chester H. Rowell.